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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|------------------------|---------------------|------------------|
| 09/787,690 | 06/22/2001 | David Gordon Stevenson | 33415 | 6126 |
| 116 | 7590 | 03/11/2004 | EXAMINER | |
| PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108 | | | CINTINS, IVARS C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1724 | |

DATE MAILED: 03/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/787,690

Applicant(s)

STEVENSON, DAVID GORDON

Examiner

Ivars C. Cintins

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,10,11,14 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) 18-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,10,11,14,16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Applicant's election of Group I, claims 1, 3-5, 10, 11, 14, 16 and 17, in the response filed December 9, 2003 is acknowledged. Because Applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 18-23 are withdrawn from further consideration, as being directed to a non-elected invention.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 10, 11, 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent No. 25 34 430. The reference discloses a device comprising a tubular member having a plurality of slots longitudinally directed along the tubular member, and means for connecting the tubular member to a fluid supply. This reference further shows that the slots can be arranged in rows (see Figs. 1 and 2). Accordingly, this German patent discloses the claimed invention with the exception of the relationship between the length of the slots and the pitch between adjacent slots, the staggering of slots (claim 14), and the material from which the tubular member is constructed (claim 17). However, one of ordinary skill in the fluid purification art would recognize that relatively long slots with a short distance between adjacent slots would be capable of distributing a greater amount of fluid than relatively short slots with a long distance between slots, but that relatively short slots with a long distance between slots would provide a distributor which is structurally more stable than one having relatively long slots with a short distance between adjacent slots. Accordingly, this skilled artisan would have been

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motivated to construct the distributor of German Patent No. 25 34 430 such that the slots in this distributor have the recited relationship between their length and the pitch between adjacent slots, in order to provide a balance between the desired fluid distribution capability and the desired structural integrity for this distributor. Also, it would have been obvious to one of ordinary skill in the art at the time the invention was made to stagger the slots in the distributor of the reference, as recited in claim 14, in order to provide a more even distribution of fluid through this reference distributor. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the distributor of the German patent from one of the materials recited in claim 17, since these materials are typically used in the construction of plumbing components.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent No. 25 34 430 in view of Padera et al. (U.S. Patent No. 5,066,393). The primary reference discloses the claimed invention with the exception of the recited slot widths. Padera et al. discloses a similar fluid distributor for a granular filter bed, and teaches using slots having the recited width (see col. 3, line 23), in order to prevent the passage of filtering material into the distributor (see col. 3, lines 27-28). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of German Patent No. 25 34 430 with slots having a width in the range taught by Padera et al., in order to prevent undesirable migration of filtration material into the distributor of this primary reference.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent No. 25 34 430 in view of German Patent No. 26 00 897. The primary reference discloses the claimed invention with the exception of using slots formed by a laser. German Patent No. 26 00

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897 teaches forming longitudinal slots in a tubular fluid distributor with a laser; and it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the slots in the device of German Patent No. 25 34 430 with a laser, as suggested by German Patent No. 26 00 897, since these laser generated slots are capable of distributing a fluid through the filter bed of the primary reference in substantially the same manner as the slots disclosed therein, to produce substantially the same results.

Applicant's arguments presented in the response filed August 11, 2003 have been noted and carefully considered but are not deemed to be persuasive of patentability. Applicant admits that German Patent No. 25 34 430 discloses a device for providing a backwash fluid to a filter medium in a filter bed in which slots are directed longitudinally along a tubular member (page 5, penultimate paragraph), but argues that this reference fails to teach that the slots should have a length not greater than the pitch between adjacent slots. It is pointed out, however, that the slots in the system of the German patent will inherently have some relationship between their length and the pitch between adjacent slots; and since one of ordinary skill in the fluid filtration art would recognize both the advantages and disadvantages associated with different slot length to pitch relationships, this skilled artisan would have been motivated to select the relationship recited in claims 1, 3-5, 10, 11, 14, 16 and 17, in order to arrive at a system having a desired compromise between increased fluid distribution resulting from longer slots and conduit structural stability resulting from shorter slots.

Applicant's amendment filed August 11, 2003 necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

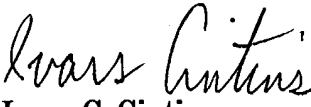
CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (571) 272-1155. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Blaine Copenheaver, can be reached at (571) 272-1156.

The centralized facsimile number for the USPTO is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
March 8, 2004